

1 Timothy D. Reuben [State Bar #94312]
2 Stephen L. Raucher [State Bar #162795]
3 Hana S. Kim [State Bar #313178]
4 **REUBEN RAUCHER & BLUM**
5 12400 Wilshire Boulevard, Suite 800
6 Los Angeles, California 90025
7 Telephone: (310) 777-1990
8 Facsimile: (310) 777-1989

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11
12 Attorneys for Petitioners/Plaintiffs Hill RHF Housing Partners, L.P.
13 and Olive RHF Housing Partners, L.P.

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ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUN 22 2018

Sherri R. Carter, Executive Officer/Clerk
By: CARMEN DEL RIO, Deputy

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9
10 **FOR THE COUNTY OF LOS ANGELES**

11
12 HILL RHF HOUSING PARTNERS, L.P., a
13 California limited partnership; OLIVE RHF
14 HOUSING PARTNERS, L.P., a California limited
15 partnership,

16 Petitioners/Plaintiffs,

17 vs.

18 CITY OF LOS ANGELES; DOWNTOWN
19 CENTER BUSINESS IMPROVEMENT
20 DISTRICT, a special assessment district in the
21 City of Los Angeles; DOWNTOWN CENTER
22 BUSINESS IMPROVEMENT DISTRICT
23 MANAGEMENT CORPORATION, a California
24 nonprofit corporation; and DOES 1 through 10,
25 inclusive,

26 Respondents/Defendants

27 Case No. BS170127
28 [Assigned to Hon. Amy D. Hogue, Dept. 86;
29 Related to Case No. BS170352]

30
31 **PETITIONERS'/PLAINTIFFS' EX PARTE
32 APPLICATION TO EXTEND BRIEFING
33 PAGE LIMITS.**

34 Date: June 22, 2018
35 Time: 8:30 a.m.
36 Place: Dept. 86

37 Complaint Filed: July 3, 2017
38 Trial Date: September 19, 2018

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on June 22, 2018 at 8:30 a.m., or as soon thereafter as the
3 matter may be heard, in Department 86 of the above-entitled Court, located at 111 N. Hill Street,
4 Los Angeles, California 90012, Plaintiffs/Petitioners Hill RHF Housing Partners, L.P. and Olive
5 RHF Housing Partners, L.P. (collectively, "RHF") will, and hereby do, move the Court *ex parte*
6 pursuant to California Rule of Court 3.1113(e) for permission to file longer trial briefs than
7 permitted by Los Angeles County Superior Court Rule 3.231(i). Specifically, RHF requests that
8 the Court allow the following page limits: (1) 25 pages for RHF's opening brief; (2) 25 pages for
9 Respondents' opposing briefs, each; and (3) 20 pages for RHF's reply brief.

10 The grounds on which RHF seeks the page limit increases are that the constitutional and
11 statutory issues in this case are complex and multi-faceted and require an in-depth analysis of a
12 dense engineer's report. The following is the contact information of Respondents' counsel:

13 Holly O. Whatley, Esq.
14 Colantuono, Highsmith & Whatley, PC
790 E. Colorado Boulevard, Suite 850
15 Pasadena, California 91140
Email: hwhatley@chwlaw.us

Daniel M. Whitley, Esq.
Deputy City Attorney
200 N. Main Street, Room 920
Los Angeles, California 90004
Email: daniel.whitley@lacity.org

16 On June 20, 2018, at approximately 6:13 p.m., counsel for RHF gave *ex parte* notice to
17 Deputy City Attorney, Daniel M. Whitley, counsel for Respondent the City of Los Angeles, and
18 counsel for the Downtown Center Business Improvement District Management Corporation
19 ("DCBID"), Holly O. Whatley, via letter. (Ex. 3 to Kim Decl.). Counsel for DCBID responded
20 and advised that DCBID would not oppose this *ex parte* application. (Ex. 4 to Kim Decl.).
21 Having spoken to counsel for the City, Counsel for DCBID also informed RHF that the City
22 would not oppose this *ex parte* application. (Kim Decl. at ¶5).

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This *ex parte* application is based upon this Notice, the Memorandum of Points and Authorities filed herewith, the Declaration of Hana S. Kim, and upon such other evidence as may be presented to the Court at the time of the hearing on this application.

5 | DATED: June 21, 2018

REUBEN RAUCHER & BLUM

By: Hana S. Kim
Hana S. Kim
Attorneys for Petitioners/Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

4 Pursuant to California Rule of Court 3.1113(e), Plaintiffs/Petitioners Hill RHF Housing
5 Partners, L.P. and Olive RHF Housing Partners, L.P. (collectively, “RHF”) hereby submit the
6 following Memorandum of Points and Authorities in support of their *ex parte* request for the
7 Court’s permission to file longer trial briefs than permitted by Los Angeles County Superior
8 Court Rule 3.231(i). Specifically, RHF requests that the Court allow the following page limits:
9 (1) 25 pages for RHF’s opening brief; (2) 25 pages for Respondents’ opposing briefs, each; and
10 (3) 20 pages for RHF’s reply brief. These extensions are reasonable and necessary because the
11 constitutional and statutory issues in this case are complex and multi-faceted and require an in-
12 depth analysis of a dense engineer’s report, as explained further below.¹

II.

BACKGROUND

15 On July 3, 2017, RHF filed a Petition for Peremptory Writ of Mandate and Complaint for
16 Declaratory and Injunctive Relief (“the Petition”) against the City of Los Angeles (“the City”),
17 the Downtown Center Business Improvement District, and the Downtown Center Business
18 Improvement District Management Corporation (“DCBID” or “the District”) to challenge the
19 propriety of DCBID’s special assessments, which are subject to Article XIII D and the Property
20 and Business Improvement Law of 1994, California Streets and Highways Code, 36600 *et seq.*
21 Broadly speaking, DCBID is required to justify the constitutionality of its assessments by
22 ensuring that (1) its services in connection with the special assessments confer special benefits
23 on each and every parcel assessed; and (2) the assessments are proportionate to and do not
24 exceed the special benefits. Trial is set for September 19, 2018, and RHF’s opening brief is due
25 to be filed on Monday, June 25, 2018.

26 On June 20, 2018, RHF gave requisite *ex parte* notice to counsel for Respondent the City

¹ Concurrently with the instant request, RHF is making a similar *ex parte* request in the related case BS170352.

and counsel for DCBID. (Ex. 3 to Kim Decl.). RHF was advised that neither DCBD nor the City would oppose the instant ex parte request. (Kim Decl. at ¶¶4-5)

III.

ARGUMENT

A. The Law and Facts of This Case Are Multi-Faceted and Require Complex Analysis, Warranting Additional Pages for Comprehensive Briefing.

7 Los Angeles County Superior Court Rule 3.231(i) subjects opening briefs to a 15 page
8 limit, opposing briefs to a 15 page limit, and reply briefs to a 10 page limit, “as set forth in
9 California Rules of Court, rule 3.1113(d), unless the parties seek, and the court grants, an order
10 for oversized briefs.” Rule of Court 3.1113(e) in turn provides, “a party may apply to the court
11 *ex parte* but with written notice of the application to the other parties . . . for permission to file a
12 longer memorandum . . . stat[ing] the reasons why the argument cannot be made within the
13 stated limit.”

14 DCBID's special assessments are subject to Article XIII D of the California Constitution,
15 including Sections 2(i) (which provides the definition of "special benefit") and 4(b) (which
16 provides a number of substantive rules with regard to special assessments). On the statutory
17 level, the Streets and Highways Code governs DCBID's special assessments. The California
18 Supreme Court's interpretation of the constitutional provisions and analysis of Proposition 218
19 adopting Article XIII D, in *Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open*
20 *Space Authority*, 44 Cal.4th 431 (2008), are also critical to this case. In addition to challenging
21 DCBID and its assessments pursuant to Article XIII D and relevant Streets and Highways Code
22 provisions, RHF also challenges DCBID's reliance on unconstitutional January 1, 2015
23 amendments to the Streets and Highways Code, which permit DCBID's assessments to
24 unconstitutionally exceed the boundaries delineated by the California Constitution, as interpreted
25 by this state's highest court. This case is further complicated by the fact that DCBID's
26 Engineer's Report, which is key to determining whether DCBID is in compliance with the law, is
27 dense and contains various elements (e.g., DCBID's boundaries, services, special benefit

1 analysis, general benefit analysis, and methodology of calculation) which need to be
2 comprehensively briefed (separately discussed and analyzed and then analyzed as a whole in
3 order to ensure constitutional compliance).

4 Accordingly, additional pages are necessary and warranted to cover all of the issues, law,
5 and facts involved in this action. Specifically as to RHF's Reply Brief, RHF will need additional
6 pages to address both of the City's and DCBID's separate briefs, if Respondents are filing
7 separately. It should be noted that RHF's request is reasonable given that: (1) RHF is requesting
8 a page limit extension for Respondents' opposing briefs as well; and (2) RHF is only requesting
9 ten additional pages per brief. Lastly, Respondents do not oppose this application.

10 **IV.**

11 **CONCLUSION**

12 For the foregoing reasons, RHF respectfully requests that the Court permit longer briefs.

14 DATED: June 21, 2018

15 REUBEN RAUCHER & BLUM

16 By: 
17 Hana S. Kim
18 Attorneys for Petitioners/Plaintiffs

DECLARATION OF HANA S. KIM

I, Hana S. Kim, declare as follows:

1. I am an attorney at law duly licensed and entitled to practice law in the State of California. I am an associate at the firm Reuben Raucher & Blum, and am counsel for Plaintiffs/Petitioners Hill RHF Housing Partners, L.P. and Olive RHF Housing Partners, L.P. ("RHF"). I have direct personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify to those facts under oath.

8 2. On Tuesday, June 19, 2018, I emailed counsel for Respondent City of Los
9 Angeles (“the City”), Deputy City Attorney Daniel M. Whitley, and counsel for Respondent
10 Downtown Center Business Improvement District (“DCBID”), Holly O. Whatley, inquiring as to
11 whether they would agree to extend the briefing page limits. A true and correct copy of my June
12 19, 2018 email is attached hereto as **Exhibit 1**. On June 19, 2018, I received an automated email
13 from Mr. Whitley, a true and correct copy of which is attached as **Exhibit 2**, providing that Mr.
14 Whitley was out of the office until July 3, 2018. The email also referred me to Assistant City
15 Attorney Beverly Cook and a phone number with which to reach her. At approximately 5:46
16 p.m., I called Ms. Cook but was unable to reach her. On Wednesday, June 20, 2018, at
17 approximately 9:30 a.m., I called Ms. Cook again but was still unable to reach her. Prior to the
18 automated email from Mr. Whitley, I was not aware that Mr. Whitley would be out of town until
19 June 3, 2018.

20 3. On Wednesday, June 20, 2018, at approximately 6:13 p.m., I emailed opposing
21 counsel letter attachments giving *ex parte* notice of the instant application. I inquired as to
22 whether opposing counsel would oppose and/or agree to stipulate on the issue. In an abundance
23 of caution, in addition to Mr. Whitley and Ms. Whatley, I also sent my email to Ms. Cook and
24 Pamela K. Graham (counsel for DCBID) and copied Mr. Whitley's secretary, Cynthia Marchena.
25 True and correct copies of my June 20, 2018 email and attached *ex parte* notice letter are
26 attached hereto as **Exhibit 3**.

1 4. On June 21, 2018, Ms. Graham responded to my *ex parte* notice and advised that
2 DCBID would not oppose RHF's *ex parte* request for additional pages. A true and correct copy
3 of Ms. Graham's email is attached hereto as **Exhibit 4**.

4 5. On June 21, 2018, at approximately 4:25 p.m., Ms. Graham called and informed
5 me that she had spoken with Ms. Cook earlier that day who told Ms. Graham that the City did
6 not plan to oppose RHF's *ex parte* request.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct.

9 Executed this 21st day of June, 2018 at Los Angeles, California.

Hana S. Kim
HANA S. KIM

From: Hana Kim
Sent: Tuesday, June 19, 2018 5:43 PM
To: 'Daniel Whitley'; 'Holly O. Whatley'
Cc: Stephen Raucher
Subject: RHF v. City of LA, et al.

Hi Daniel and Holly,

Would the both of you be agreeable to extending RHF's opening briefs' page limit to 20 and the reply briefs to 15? We would reciprocate the same 20 page extension for your opposing briefs. Please let me know if this is agreeable.

Best,



Hana S. Kim
12400 Wilshire Boulevard, Suite 800 | Los Angeles, California 90025
Telephone: (310) 777-1990 | Facsimile: (310) 777-1989
www.rrbatorneys.com | hkim@rrbatorneys.com

This Message Is Confidential and May Be Protected By the Attorney-Client Privilege and Other Applicable Law.

From: Daniel Whitley [daniel.whitley@lacity.org]
Sent: Tuesday, June 19, 2018 5:43 PM
To: Hana Kim
Subject: Out of Office Re: RHF v. City of LA, et al.

I will be out of the office until July 3, 2018. If this matter needs immediate attention, please contact Beverly Cook at (213) 978-8500.

--
Daniel M. Whitley
Deputy City Attorney
Public Finance/Economic Development
Tel: (213) 978-7786
Fax: (213) 978-7811

*****Confidentiality Notice *****

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From: Hana Kim
Sent: Wednesday, June 20, 2018 6:13 PM
To: 'Beverly.Cook@lacity.org'; 'Daniel Whitley'; 'Pamela K. Graham'; 'Holly O. Whatley'
Cc: Stephen Raucher; 'cynthia.marchena@lacity.org'
Subject: RHF v. City of LA, et al., BS170352 and BS170127
Attachments: 2018-06-20 Ltr to Counsel - Ex Parte Notice (00325354xC20DB).pdf; 2018-06-20 Ltr to Counsel - Ex Parte Notice (00325355xC20DB).pdf

Dear Counsel –

Please see attached my letters of today's date with regard to both of the BID actions, referred to by their case nos. above, giving you *ex parte* notice. Please advise as to whether you will oppose and/or agree to stipulate.

Best,



Hana S. Kim
12400 Wilshire Boulevard, Suite 800 | Los Angeles, California 90025
Telephone: (310) 777-1990 | Facsimile: (310) 777-1989
www.rrbatorneys.com | hkim@rrbatorneys.com

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RRB

REUBEN RAUCHER & BLUM^{PC}
ATTORNEYS AT LAW

12400 Wilshire Boulevard, Suite 800
Los Angeles, California 90025
Phone: (310) 777-1990
Fax: (310) 777-1989
www.rrbatorneys.com

June 20, 2018

Refer To File Number
2035.184

VIA EMAIL

Holly O. Whatley, Esq.
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Boulevard, Suite 850
Pasadena, California 91140

VIA EMAIL

Daniel M. Whitley, Esq.
Deputy City Attorney
200 N. Main Street, Room 920
Los Angeles, California 90004

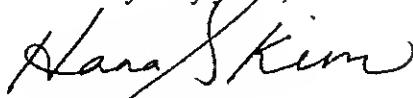
Re: RHF v. City of Los Angeles, et al., Case No. BS170127

Dear Ms. Whatley and Mr. Whitley:

We hereby give you notice that RHF will proceed *ex parte* on Friday, June 22, 2018, at 8:30 a.m., or as soon thereafter as the matter may be heard, in Department 86 of the Los Angeles Superior Court, located at 111 N. Hill Street, Los Angeles, California 90012.

RHF will request that the Court allow briefing page limits to be increased to 25 pages for RHF's opening brief, 25 pages for your opposing briefs, and 20 pages for RHF's reply brief. The grounds on which we seek the page limit increases are that the constitutional and statutory issues in this case are complex and multi-faceted and require an in-depth analysis of a dense engineer's report. Please advise as to whether you will oppose the application.

Very truly yours,



Hana S. Kim

HSK:mof

From: Pamela K. Graham [pgraham@chwlaw.us]
Sent: Thursday, June 21, 2018 10:25 AM
To: Hana Kim; Beverly.Cook@lacity.org; Daniel Whitley; Holly O. Whatley
Cc: Stephen Raucher; cynthia.marchena@lacity.org
Subject: RE: RHF v. City of LA, et al., BS170352 and BS170127

Hana,

DCBID and San Pedro do not oppose your request for additional pages in each of these matters. To clarify, we understand that in the DCBID matter, Petitioners will have 25 pages for their opening brief; the City will have 25 pages for its opposition; DCBID will have 25 pages for its opposition; and Petitioners will have 20 pages for their reply. The same page limits will apply in the San Pedro matter.

Thank you,
Pamela

Pamela K. Graham
Senior Counsel
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd., Suite 850 | Pasadena, CA 91101
Direct 213-542-5702 Main 213-542-5700 Fax 213-542-5710
pgraham@chwlaw.us www.chwlaw.us

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From: Hana Kim [<mailto:hkim@rrbattorneys.com>]
Sent: Wednesday, June 20, 2018 6:13 PM
To: Beverly.Cook@lacity.org; Daniel Whitley <daniel.whitley@lacity.org>; Pamela K. Graham <pgraham@chwlaw.us>; Holly O. Whatley <hwhatley@chwlaw.us>
Cc: Stephen Raucher <sraucher@rrbattorneys.com>; cynthia.marchena@lacity.org
Subject: RHF v. City of LA, et al., BS170352 and BS170127

Dear Counsel –

Please see attached my letters of today's date with regard to both of the BID actions, referred to by their case nos. above, giving you *ex parte* notice. Please advise as to whether you will oppose and/or agree to stipulate.

Best,

RRB
REUBEN RAUCHER & BLUM
ATTORNEYS AT LAW

Hana S. Kim
12400 Wilshire Boulevard, Suite 800 | Los Angeles, California 90025
Telephone: (310) 777-1990 | Facsimile: (310) 777-1989
www.rrbattorneys.com | hkim@rrbattorneys.com

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RECEIVED
JUN 25 2018

BY:



12400 Wilshire Boulevard, Suite 800
Los Angeles, California 90025

Michael G. Colantuono, Esq.
Holly O. Whatley, Esq.
Pamela K. Graham, Esq.
Colantuono, Highsmith & Whatley, PC
790 East Colorado Boulevard, Suite 850
Pasadena, CA 91101